

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION**

**Item #36 (Rev. 1)  
Agenda I.D. # 13165  
RESOLUTION E-4670  
August 14, 2014**

**REDACTED  
R E S O L U T I O N**

**Resolution E-4670.** Pacific Gas and Electric Company (PG&E) requests approval of a renewable energy sales agreement with Tenaska Power Services Company (Tenaska).

**PROPOSED OUTCOME:**

- This resolution approves PG&E's request to enter into a renewable energy sales agreement with Tenaska. The agreement is approved without modifications.

**SAFETY CONSIDERATIONS:**

- The agreement approved by this resolution will not alter existing agreements or any facility operations. Because the sales agreement does not require a change in facility operations, there are no incremental safety implications associated with approval of the agreement beyond the status quo.

**ESTIMATED COST:**

- Costs of the agreement are confidential at this time.

**By Advice Letter 4441-E filed on June 10, 2014**

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## **SUMMARY**

**Pacific Gas and Electric Company's (PG&E) proposed renewable energy sales agreement with Tenaska Power Services Company (Tenaska) is consistent with the Renewables Portfolio Standard (RPS) guidelines and other California Public Utilities Commission (Commission) rules and decisions and is therefore approved.**

PG&E filed Advice Letter (AL) 4441-E on June 10, 2014, requesting Commission review and approval of a power purchase and sale agreement (PPSA) for the resale of renewable energy and associated renewable energy credits (RECs) to Tenaska. The PPSA is a short-term bilateral contract for renewable generation from various RPS-certified facilities that are currently operating in California and under contract to PG&E.

This resolution approves the PPSA without modifications. PG&E's execution of the PPSA is consistent with its 2013 RPS Procurement Plan (RPS Plan), including its resource needs, which the Commission approved in Decision 13-11-024. Sales from PG&E pursuant to the PPSA are reasonably priced over the life of the sales agreement, subject to Commission review of PG&E's administration of the PPSA. Payments received by PG&E under the PPSA shall be credited to PG&E's ratepayers via PG&E's Energy Resource Recovery Account (ERRA).

The following table summarizes PG&E's PPSA with Tenaska:

**Table 1: Summary of the Sales Agreement between PG&E and Tenaska**

<b>Seller</b>	<b>Buyer</b>	<b>Technology Type</b>	<b>Term</b>	<b>Expected Energy (MWh)</b>	<b>Contract Start-Finish Date</b>	<b>Location</b>
PG&E	Tenaska Power Services Company	Existing, RPS-eligible Geothermal and Hydroelectric facilities	Up to 6 months <sup>1</sup>	50,000	4/23/14-10/31/14	All facilities are located in California

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<sup>1</sup> The energy delivery period will no later than October 31, 2014. The REC delivery period will end on the date PG&E has transferred the total volume of RECs to Tenaska.

## **BACKGROUND**

### **Overview of the Renewables Portfolio Standard Program**

The California RPS program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107, SB 1036, and SB 2 (1X).<sup>2</sup> The RPS program is codified in Public Utilities Code Sections 399.11-399.31.<sup>3</sup> Under SB 2 (1X), the RPS program administered by the Commission requires each retail seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources be an amount that equals an average of 20 percent of the total electricity sold to retail customers in California for compliance period 2011-2013; 25 percent of retail sales by December 31, 2016; and 33 percent of retail sales by December 31, 2020.<sup>4</sup>

Additional background information about the Commission's RPS Program, including links to relevant laws and Commission decisions, is available at <http://www.cpuc.ca.gov/PUC/energy/Renewables/overview.htm> and <http://www.cpuc.ca.gov/PUC/energy/Renewables/decisions.htm>.

## **NOTICE**

Notice of PG&E AL 4441-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the AL was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

## **PROTESTS**

No protests were filed.

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<sup>2</sup> SB 1078 (Sher, Chapter 516, Statutes of 2002); SB 107 (Simitian, Chapter 464, Statutes of 2006); SB 1036 (Perata, Chapter 685, Statutes of 2007); SB 2 (1X) (Simitian, Chapter 1, Statutes of 2011, First Extraordinary Session).

<sup>3</sup> All further references to sections refer to Public Utilities Code unless otherwise specified.

<sup>4</sup> D.11-12-020 established a methodology to calculate procurement requirement quantities for the three different compliance periods covered in SB 2 (1X) (2011-2013, 2014-2016, and 2017-2020).

## **DISCUSSION**

### **PG&E requests approval of a renewable energy PPSA with Tenaska Power Services Company.**

On June 10, 2014, PG&E filed AL 4441-E requesting Commission approval of a renewable energy sales agreement with Tenaska. The PPSA provides that PG&E will sell RPS-eligible energy and the associated REC's to Tenaska. The RPS-eligible energy that PG&E will sell to Tenaska will be generated by one or a combination of the facilities listed in Table 2, with which PG&E currently has a Commission-approved power purchase agreement (PPA). All of the facilities are located in California and are interconnected into the California Independent System Operator (CAISO) grid.

**Table 2: List of facilities under contract to PG&E that may provide RPS-eligible energy to Tenaska pursuant to the PPSA**

<b>Name of Facility</b>	<b>Technology</b>	<b>Location (all CA)</b>	<b>CEC ID</b>	<b>Host Balancing Authority</b>
Geysers Power Plant – Calpine Geothermal Unit 11	Geothermal	Middletown	60025B	CAISO
Geysers Power Plant – Calpine Geothermal Unit 12	Geothermal	Middletown	60004A	CAISO
Geysers Power Plant – Calpine Geothermal Unit 13	Geothermal	Middletown	60005A	CAISO
Geysers Power Plant – Calpine Geothermal Unit 14	Geothermal	Middletown	60026B	CAISO
Geysers Power Plant – Calpine Geothermal Unit 16	Geothermal	Middletown	60006A	CAISO
Geysers Power Plant – Calpine Geothermal Unit 17	Geothermal	Middletown	60007A	CAISO

Geysers Power Plant - Calpine Geothermal Unit 18	Geothermal	Middletown	60008A	CAISO
Geysers Power Plant - Calpine Geothermal Unit 20	Geothermal	Middletown	60009A	CAISO
Geysers Power Plant - Calpine Geothermal Unit 7/8	Geothermal	Middletown	60003A	CAISO
Geysers Power Plant - Sonoma/Calpine Geyser	Geothermal	Middletown	60010A	CAISO
Geysers Power Plant - Calistoga Power Plant	Geothermal	Middletown	60117A	CAISO
Geysers Power Plant - West Ford Flat Power Plant	Geothermal	Middletown	60114A	CAISO
Geysers Power Plant - Aidlin Power Plant	Geothermal	Middletown	60115A	CAISO
Geysers Power Plant - Bear Canyon Power Plant	Geothermal	Middletown	60112A	CAISO
PCWA (French Meadows Powerhouse 2)	Small Hydro	Forestville	60268A	CAISO
PCWA (Oxbow Powerhouse 1)	Small Hydro	Forestville	60269A	CAISO
PCWA (Hell Hole Powerhouse 1)	Small Hydro	Forestville	60234A	CAISO

In AL 4441-E, PG&E states that it entered into the sales transaction because PG&E forecasts that it will have surplus RPS procurement relative to its RPS procurement quantity requirement for Compliance Period 2014-2016 (CP 2). The PPSA with Tenaska is expected to reduce PG&E's forecasted RPS procurement portfolio by 50,000 megawatt-hours (MWh) over the agreement's term. The term of the agreement is up to 6 months. Pursuant to the PPSA, PG&E will provide

firm deliveries of generation to Tenaska at the North of Path 15 Existing Zone Generation Hub (NP-15 EZ Gen Hub).

PG&E requests the Commission issue a resolution that:

1. Approves the Power Purchase and Sale Agreements in its entirety.
2. Finds that the Power Purchase and Sale Agreement is consistent with PG&E's Commission-approved RPS Procurement Plan and that the sale of the renewable electricity and green attributes under the Power Purchase and Sale Agreement is reasonable and in the public interest;
3. Finds that all costs of the Power Purchase and Sale Agreement, including broker fees associated with the Transaction, are fully recoverable in rates over the life of the PPSA, subject to Commission review of PG&E's administration of the PPSA;
4. Finds that the Power Purchase and Sale Agreement is reasonable;
5. Finds that the payments received by PG&E pursuant to the Power Purchase and Sale Agreement shall be credited to PG&E customers through PG&E's Energy Resource Recovery Account over the life of the Power Purchase and Sale Agreement, subject to Commission review of PG&E's administration of the Power Purchase and Sale Agreement;
6. Finds that deliveries under the PPSA are deliveries under the first portfolio content category specified in Section 399.16(b)(1)(A); and
7. Any other and further relief as the Commission finds just and reasonable.

### **Energy Division Review of the Proposed Sales Agreement**

Energy Division evaluated the PPSA using the following criteria:

- Consistency with bilateral contracting guidelines
- Consistency with PG&E's 2013 RPS Procurement Plan and RPS Portfolio Need
- Consistency with RPS standard terms and conditions (STCs)
- Independent Evaluator review
- Consistency with Portfolio Content Categories Requirements
- Procurement Review Group (PRG) participation

- Price and cost reasonableness
- Public safety
- Contract viability

### **Consistency with Bilateral Contracting Guidelines**

In D.06-10-019, the Commission established rules pursuant to which the IOUs could enter into bilateral RPS contracts. In D.09-06-050, the Commission established review standards and processes for short-term and bilateral contracts. PG&E adhered to these bilateral contracting rules and processes because the PPSA is at least one month in duration, the PPSA was filed by advice letter, the PPSA was reviewed by PG&E's Procurement Review Group (PRG), negotiations were overseen by an independent evaluator, and the PPSA is reasonable, as discussed in more detail below.

The sales agreement is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.

### **Consistency with PG&E's 2013 RPS Procurement Plan and RPS Portfolio Need**

#### PG&E's 2013 RPS Procurement Plan

Pursuant to statute, PG&E's 2013 RPS Plan includes: an assessment of supply and demand to determine the optimal mix of renewable generation resources; description of potential RPS compliance delays; status update of projects within its RPS portfolio; and an assessment of the project failure and delay risk within its RPS portfolio.<sup>5</sup> Specifically, PG&E states in its 2013 RPS Plan that PG&E will seek to sell any non-bankable, surplus RPS volumes and continue to assess the value to PG&E's customers of sales of excess procurement.<sup>6</sup>

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<sup>5</sup> Pub. Util. Code, Section §399.13(a)(5).

<sup>6</sup> PG&E's 2013 RPS Plan at page 35.

### PG&E's RPS Portfolio Need

In AL 4441-E, PG&E states that it is projecting to have exceeded its RPS procurement quantity requirement for CP 2. PG&E asserts that the sale of 50,000 MWh of renewable energy to Tenaska during CP 2 is not expected to materially change PG&E's overall procurement need in relation to PG&E's CP 2 RPS procurement quantity requirement.

PG&E's statements in AL 4441-E are consistent with PG&E's 2013 RPS Plan and Preliminary 2013 RPS Compliance Report, in which PG&E projects that its expected total RPS procurement for CP 2 will be in excess of its procurement quantity requirement.<sup>7</sup> Thus, it is likely that PG&E will procure more than the required average of 23.3 percent renewables in CP 2.<sup>8</sup> See Confidential Appendix A for details on PG&E's forecasted RPS procurement need.

The short-term PPSA is for up to six months during CP 2 and will reduce the amount of forecasted surplus RECs that PG&E is projected to have in its RPS procurement portfolio. Based on PG&E's RPS portfolio need described in its 2013 RPS Plan and AL 4441-E, the Commission concludes that the Tenaska PPSA is consistent with PG&E's 2013 RPS Plan.

PG&E's renewable energy sales agreement with Tenaska allows PG&E to recover RPS procurement costs while maintaining compliance with RPS targets.

The sales agreement is consistent with PG&E's 2013 RPS Procurement Plan, approved by D.13-11-024.

### **Consistency with RPS Standard Terms and Conditions**

The Commission adopted a set of standard terms and conditions (STCs) required in RPS contracts, three of which are considered "non-modifiable." The STCs were compiled in D.08-04-009 and subsequently amended in D.08-08-028, D.10-03-021, as modified by D.11-01-025, and D.13-11-024.

The sales agreements include the Commission adopted RPS "non-modifiable" standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, D.10-03-021, as modified by D.11-01-025, D.13-11-024.

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<sup>7</sup> PG&E's 2014 33% RPS Procurement Progress Report, April 1, 2014.

<sup>8</sup> The amount of electricity generated per year from eligible renewable resources is to be increased to an amount that averages 23.3 percent of the total electricity sold to retail customers in California for the period 2014-2016.

### **Independent Evaluator Review**

PG&E retained independent evaluator (IE) Boston Pacific Company, Inc. to oversee PG&E's bilateral negotiations with Tenaska and to evaluate the PPSA's overall merit for CPUC approval. AL 4441-E included a public and confidential IE report.

In the IE report (p. 1), the IE states, "Boston Pacific recommends that the Commission approve this contract."

Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw PG&E's negotiations with Tenaska.

### **Portfolio Content Categories and Resale**

In D.11-12-052, the Commission defined and implemented portfolio content categories (PCC) for the RPS program. D.11-12-052 also adopted a set of conditions for allowing the resale of a part of or all of a contract for RPS procurement.

In AL 4441-E, PG&E claims that it is procuring PCC 0 and PCC 1 product and reselling the product to Tenaska as PCC 1 product pursuant to the Tenaska PPSA.<sup>9</sup> To support its claim, PG&E states that the product being sold will be from RPS-certified facilities that have their first point of interconnection with the CAISO balancing authority.

In this resolution, however, the Commission makes no determination regarding the proposed agreement's portfolio content category classification or if resale conditions are met because RPS contract evaluation process is a separate process from the RPS compliance determination and portfolio content category classification which requires consideration of several factors based on various showings in a compliance filing.<sup>10</sup> Thus, making a portfolio content classification determination in this resolution regarding the procurement considered herein is not appropriate.

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<sup>9</sup> PG&E will not know the exact allocation of the long-term and short-term RECs being sold through the proposed PPSA until the RECs have been transferred to Tenaska. PG&E estimates that the quantity of short-term RECs to be sold to Tenaska from the proposed PPSA will be between 0-32,000. This estimate is based off of historical deliveries from the PCWA facilities which represent the short-term RECs.

<sup>10</sup> D.11-12-052, pp. 8, 12.

### **Procurement Review Group Participation**

The PRG was initially established in D.02-08-071 as an advisory group to review and assess the details of the IOUs' overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission.<sup>11</sup> PG&E asserts that the PPSA was presented to the PRG on May 22, 2014, via e-mail.

Pursuant to D.02-08-071, PG&E's Procurement Review Group participated in the review of the sales agreements.

### **Price Reasonableness**

PG&E's states that it validated the price reasonableness of the Tenaska PPSA by using an independent power broker to anonymously solicit bids from potential buyers. When compared against the set of cohorts provided by the independent power broker, the Commission finds that the Tenaska PPSA's price is reasonable. The Commission notes, however, that the Commission has not established rules for price reasonableness review of agreements for RPS sales by IOUs and that the analysis of the sales agreement's price reasonableness here is not precedent setting. Confidential Appendix A includes a detailed discussion of the contractual pricing terms and the analysis of the reasonableness of the PPSA's price.

The total expected revenue from the sales agreement is reasonable based on the sales agreement's comparison against competing offers provided by an independent power broker.

Payments received by PG&E under the sales agreement shall be credited to PG&E's ratepayers through PG&E's Energy Resource Recovery Account over the life of the sales agreement, subject to Commission review of PG&E's administration of the sales agreement.

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<sup>11</sup> PG&E's PRG includes representatives of the Commission's Energy Division and Office of Ratepayer Advocates, Department of Water Resources, Union of Concerned Scientists, The Utility Reform Network, the California Utility Employees, and Jan Reid, as a PG&E ratepayer.

### **Public Safety**

California Public Utilities Code Section 451 requires that every public utility maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment and facilities to ensure the safety, health, and comfort of the public.

This resolution approves a PPSA for the sale of RPS-eligible generation from operating facilities. The PPSA does not alter PG&E's existing power purchase agreements or any facility operations. Based on the information before us, the PPSA does not appear to result in any adverse safety impacts on the facilities or operations of PG&E.

### **Contract Viability**

The generation to be sold under the PPSA is from operating facilities that have been certified by the California Energy Commission (CEC) as RPS-eligible. Additionally, the combined capacity and expected annual generation of the facilities that may provide generation to Tenaska pursuant to the contract considered herein is greater than the amount to be sold. Thus, it is reasonable that PG&E will be able to meet the terms and conditions of the sales agreement.

### **CONFIDENTIAL INFORMATION**

The Commission, in implementing Public Utilities Code § 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032, that certain material submitted to the Commission as confidential should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations. D.06-06-066 adopted a time limit on the confidentiality of specific terms in RPS contracts. Such information, such as price, is confidential for three years from the date the contract states that energy deliveries begin or one year after expiration, whichever comes first, except contracts between IOUs and their affiliates, which are public. In this case, deliveries for the Tenaska PPSA will begin on April 23, 2014 and the PPSA will terminate by October 31, 2014; thus, the contract will be public one year after the contract is terminated.

The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.

### **COMMENTS ON THIS RESOLUTION**

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to Public Utilities Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **FINDINGS AND CONCLUSIONS**

1. The Tenaska sales agreement is consistent with the bilateral contracting guidelines established in D.06-10-019 and D.09-06-050.
2. PG&E's renewable energy sales agreement with Tenaska allows PG&E to recover Renewables Portfolio Standard procurement costs while maintaining compliance with Renewables Portfolio Standard targets.
3. The sales agreement is consistent with PG&E's 2013 Renewables Portfolio Standard Procurement Plan, approved by D.13-11-024.
4. The sales agreement includes the Commission-adopted Renewables Portfolio Standard standard terms and conditions including those deemed "non-modifiable."
5. Consistent with D.06-05-039 and D.09-06-050, an independent evaluator oversaw PG&E's negotiations with Tenaska.
6. The Commission makes no determination regarding the proposed agreement's portfolio content category classification or if resale conditions are met because the Renewables Portfolio Standard contract evaluation process is a separate process from the Renewables Portfolio Standard compliance determination and portfolio content category classification.
7. Pursuant to D.02-08-071, PG&E's Procurement Review Group participated in the review of the sales agreement.
8. The total expected revenue from the sales agreement is reasonable based on the sales agreement's price comparison against competing offers provided by an independent power broker.
9. The analysis used to determine that the sales agreement's price is reasonable is not precedent setting.
10. Payments received by PG&E under the sales agreement shall be credited to PG&E's ratepayers via PG&E's Energy Resource Recovery Account over the life of the sales agreement, subject to Commission review of PG&E's administration of the sales agreements.

11. PG&E shall record the transactions authorized in this Resolution in its Energy Resource Recovery Account Balancing Accounts, and these transactions shall be subject to the Commission's Energy Resource Recovery Account Review Proceeding.
12. It is reasonable that PG&E will be able to meet the terms and conditions of the sales agreements.
13. The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.
14. Advice Letter 4441-E should be approved effective today without modification.

**THEREFORE IT IS ORDERED THAT:**

1. Pacific Gas and Electric Company's Advice Letter 4441-E that requests Commission approval of a renewable energy sales agreement with Tenaska Power Services Company is approved.
2. Pacific Gas and Electric Company shall record the transaction authorized in this Resolution in its Energy Resource Recovery Account Balancing Accounts, and this transaction shall be subject to the Commission's Energy Resource Recovery Account Review Proceeding.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on August 14, 2014; the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director

## **Confidential Appendix A**

Analysis and Summary of the Tenaska PPSA

[REDACTED]